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| 10/829,304      | 04/21/2004  | Sandra Stanton       | STAN-0002           | 5665             |

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| EXAMINER |
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EPPES, BRYAN L

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| ART UNIT | PAPER NUMBER |
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3609

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06/27/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/829,304             | STANTON, SANDRA     |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Bryan Éppes            | 3609                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 6-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-5 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____                                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/21/04 &amp; 8/16/05</u> .                                   | 6) <input type="checkbox"/> Other: ____                           |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C.

121:

- I. Claims 1-5, drawn to a method of simulating a vertical post log corner, classified in class 52, subclass 748.11.
- II. Claims 6-20, drawn to a system simulating a vertical post log corner and a system simulating log construction of a building, classified in class 52, subclass 233.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the process (Invention I) does not require siding pieces attached in a substantially perpendicular direction as in claims 6-16, nor does it require a starter nailing strip as in claims 17-20.

3. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

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4. During a telephone conversation with Mr. John LaBatt on June 5, 2007 a provisional election was made with traverse to prosecute the invention of a system simulating a vertical post log corner and a system simulating log construction of a building, claims 6-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-5 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

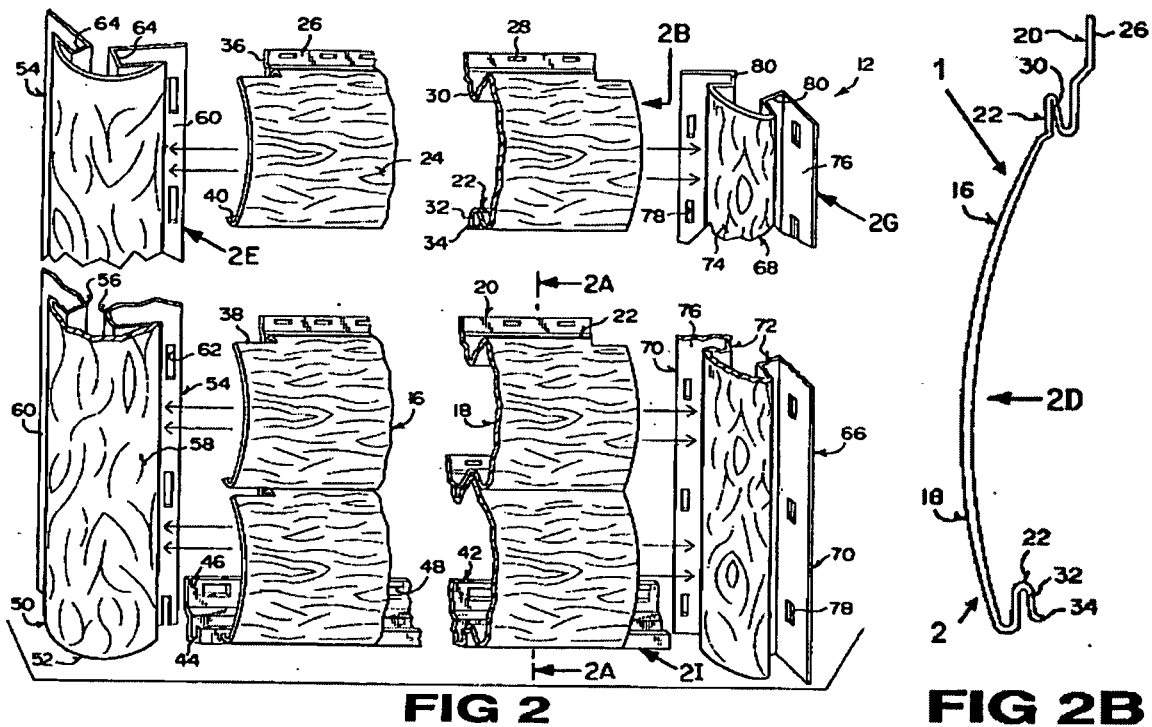
***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 6-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Heath, Jr. et al. (U.S. Patent 5,694,728).



- a. Claim 6. Heath (Fig. 2 above) discloses an outer corner log piece 52 configured to be attached to a first side and second side of an outer corner; and a plurality of siding pieces 16 configured to be attached to the building adjacent to the outer corner log siding piece and in a substantially perpendicular direction to the outer corner log siding piece.
- b. Claim 7. Heath discloses the system of claim 6, wherein each of the plurality of siding pieces 16 joins the to the outer corner log siding piece (Column 4 Line 59).
- c. Claim 8. Heath discloses the invention, as described previously, wherein each of the plurality of siding pieces 16 joins using a slot 32 and tab 30 system (See Column 4 ¶ 3).

d. Claim 9. Heath discloses the invention, as described previously, wherein the plurality of siding pieces 16 comprise one of a plurality of straight siding pieces and a plurality of butt corner siding pieces. The Heath siding pieces 16 are substantially straight and butt up against the outer corner log siding piece (See Fig. 2).

e. Claim 10. Heath discloses the invention, as described previously, wherein the plurality of siding pieces 16 and the outer corner log siding piece 50 includes a rounded exterior side 52 & 18 (Fig. 2).

f. Claim 11. Heath discloses the invention, as described previously, wherein each of the plurality of siding pieces and the outer corner log siding piece includes an interior bracing. Under the broad limitation of "interior bracing," the Heath reference includes siding pieces with an inner wall (i.e. Fig. 2B Ref. 2D), which, in effect, is an interior bracing.

Furthermore, the nailing strip of the siding pieces and the outer corner log siding piece may also be construed as "interior bracing," especially since when the system is assembled, the strips are hidden from view.

g. Claim 12. Heath discloses the invention, as described previously, wherein the plurality of siding pieces 16 includes a downward sloped ledge 1 & 2 on a first outer edge and a second outer edge (Modified Fig. 2B).

h. Claim 13. Heath discloses the invention, as described previously, wherein the plurality of siding pieces 16 includes a nailing strip 26 proximate a first outer edge (Fig. 2 & 2B).

- i. Claim 14. Heath discloses the invention, as described previously, wherein the plurality of siding pieces 16 further includes a barb 34, wherein the barb is configured in such a way that it may be inserted between the nailing strip 26 of an adjacent siding piece and the building (Fig. 2 & 2B).
- j. Claim 15. Heath discloses the invention, as described previously, wherein the top of nailing strip 26 angles away from the structure when so attached. As the nailing strip 26 extends toward the tab 30, defined as the "top," the strip 26 angles away from the mounting surface resulting in a void between the siding piece 16 and mounting surface (See Fig. 2B).
- k. Claim 16. Heath discloses the invention, as described previously, further comprising a starter nailing strip (See Column 4 ¶ 6).
- l. Claim 17. Heath discloses a system for simulating a log construction of a building, including: a plurality of straight siding pieces 16; a starter nailing strip (See Column 4 ¶ 6); a channel siding piece (See Column 5 ¶ 9); and a means for simulating a vertical post log 50.
- m. Claim 18. Heath discloses the invention, as described previously, including each of the plurality of straight siding pieces having: a rounded exterior side 18 (Fig. 2); an interior bracing (See Claim 11 rejection); a sloped ledge on each outer edge 1 & 2 (Fig. 2B); a nailing strip proximate a first outer edge 26; and a barb 34 proximate a second outer edge.

Heath teaches the system installed on a building (Column 2 Line 52) and the sloped ledges 1 & 2 (Fig. 2B) downwardly sloped.

Furthermore, the system of Heath may be installed in such a way that the barb 34 is between the building and an adjacent siding piece or starter nailing strip (e.g. nailing strip 26 inserted within slot 32).

n. Claim 19. Heath discloses the invention, as described previously, including the outer corner log siding piece having: a rounded exterior side 52; an interior bracing (See Claim 11 rejection); a notch (the space between nailing strips 60 opposite the rounded exterior side 52); and a plurality of side supports 64 that attach the notch to the rounded exterior side 52 (Fig. 2).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Heath, Jr. et al. (U.S. Patent 5,694,728) in view of Hoffner (U.S. Patent 5,586,422).

o. Claim 20. Heath discloses the invention, as described previously, except a pass corner siding piece configured to extend beyond the outer corner. Hoffner discloses a simulated log siding including a pass corner siding piece 40 (Column 3 ¶ 5) to further contribute to the illusion that the building is constructed from actual wooden logs. Thus it would have been



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obvious to one skilled in the art, at the time the invention was made, to modify the Heath log siding system with the pass corner siding piece taught by Hoffner to further contribute to the illusion that the building is constructed from actual wooden logs.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. K.M.Hyland et al. (U.S. Patent 1,655,701) cabin siding system, Woolems et al. (U.S. Patent 5,423,153), Hovland (U.S. Patent 5,638,649), Kern (U.S. Patent 6,647,687).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Eppes whose telephone number is (571) 270-3109. The examiner can normally be reached on M-F; alt. Fri. off (7:30am-5pm EST.).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vic Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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Art Unit 3600

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6/12/2007